

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

STEVEN R. HAWKINS,)
)
)
Plaintiff,)
)
)
vs.) **Case number 4:10cv2222 JCH**
) **TCM**
MICHAEL J. ASTRUE,)
Commissioner of Social Security,)
)
)
Defendant.)

**REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

This 42 U.S.C. § 405(g) action for judicial review of an adverse decision of Michael J. Astrue, Commissioner of Social Security (Commissioner), denying the application of Steven R. Hawkins (Plaintiff) for disability insurance benefits (DIB) under Title II of the Social Security Act,¹ 42 U.S.C. §§ 401-433, is before the undersigned United States Magistrate Judge for a review and recommended disposition. See 28 U.S.C. § 636(b).

By order of December 7, 2010, the Honorable Jean C. Hamilton, United States District Judge for the Eastern District of Missouri, directed that, pursuant to this District's Local Rule 9.02, Plaintiff serve and file a brief within thirty days after the Commissioner's service of an answer and transcript. These pleadings were filed on June 8, 2011; therefore, Plaintiff's brief was due on July 8, 2011. No brief has been filed, nor has any extension been requested.

¹Plaintiff does not specify in his complaint whether he was denied DIB under Title II or supplemental security benefits under Title XVI, 42 U.S.C. § 1381-1383b, or both. Because he cited the regulation, 20 C.F.R. § 404.1505(a), governing DIB, the Court will assume that Plaintiff is challenging the denial of those benefits.

Consequently, by order of September 28, 2011, the Court directed Plaintiff to show cause on or before October 12, 2011, why his case should not be dismissed for failure to comply with a court order or failure to prosecute.

The time for responding has passed without any action by Plaintiff.

Accordingly,

IT IS HEREBY RECOMMENDED that this action be dismissed for failure to prosecute and failure to comply with a court order.

The parties are advised that they have **fourteen (14)** days in which to file written objections to this Report and Recommendation pursuant to 28 U.S.C. § 636(b)(1), unless an extension of time for good cause is obtained, and that failure to file timely objections may result in waiver of the right to appeal questions of fact.

/s/ Thomas C. Mummert, III
THOMAS C. MUMMERT, III
UNITED STATES MAGISTRATE JUDGE

Dated this 19th day of October, 2011.